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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/766,123	01/28/2004	Leen Holleman	11953-1960	2104
24504	7590	01/24/2006	EXAMINER	
THOMAS, KAYDEN, HORSTEMEYER & RISLEY, LLP 100 GALLERIA PARKWAY, NW STE 1750 ATLANTA, GA 30339-5948			PARSLEY, DAVID J	
			ART UNIT	PAPER NUMBER
			3643	

DATE MAILED: 01/24/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/766,123

Applicant(s)

HOLLEMAN, LEEN

Examiner

David J. Parsley

Art Unit

3643

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 11 January 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: 1-9, 11, 12, 14 and 15.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____
13. ☐ Other: _____.

David J. Parsley
David J. Parsley
Examiner

Continuation of 11. does NOT place the application in condition for allowance because: applicant's arguments are not persuasive in that in regards to the 35 U.S.C. 102(b) rejections to claims 14-15, the Lindert et al. reference US 5494479 discloses deboning right and left poultry wings in that the device of Lindert et al. processes multiple wings wherein any of the wings can be construed as a right or left wing in that on the conveyor - at 19, one wing is in a position left or right of another respective wing. Therefore the terms right and left to describe the wings are deemed to be broad terms that do not specifically limit the claimed invention. Further, Lindert et al. discloses outside surfaces of each wing face the same direction during the separation process in that any of the outside surfaces of the wings regardless of the orientation of the wings at least faces the same direction as that of the outside surfaces of the other wings throughout the entire processing of the wings including the separation process. Further, Lindert et al. discloses bending the wings with respect to mid-wing segments at the elbow joint - at 14 about an elbow guide - at 15-19, positioned on the outside surfaces of the wings until the elbow joints are opened as seen in figures 3-5, where the engagement of the wing with the cutting blades - at 22, produces forces on the wings which causes a bending of the wing with respect to the elbow guides - at 15-19, in that the blades engage the wing at a location on the wings offset from the elbow joint, where the cutting of the wing by the blades - at 22 opens the joint as seen in figure 5. Further, regarding claims 14-15 the claims do not include the limitations of "partially suspending the poultry wing from its tip segment..." therefore the arguments with respect to this limitation are moot. Further, the Lindert et al. reference discloses separating the mid wing segment - at 14,24, from the primary segments at 11,13,41, or 10,12,24, as seen in figures 3-5 where these segments are cut from the wing and thus separated. Regarding claim 15, the Lindert et al. reference discloses removing the mid-wing segment laterally from the tip segment as seen in figures 4-5 where in figure 4 the mid-wing segment - at 14,24, is closer to the other segments - at 11,13,41 or 10,12,24, and then these segments are moved further apart laterally as seen in figure 5. Regarding the 35 U.S.C. 103(a) rejections to claims 1-9 and 11-12, the Lindert et al. reference does disclose suspending the wing from its tip segment - at 41 as seen in figure 7a, however Lindert et al. does not disclose suspending the wing from the tip segment prior to the bending of the elbow joint as claimed. The Hazenbroek et al. reference US 5976004 does disclose suspending the wing from the tip segment as seen at item 100 in figure 13 prior to bending the wing via the stripper elements at 79-83 as seen in figure 13. Therefore it is deemed that the combination of the Lindert et al. and Hazenbroek references renders the claims obvious given the motivation to combine the references set forth in paragraph 3 of the final rejection dated 10-11-05. Further, the Hazenbroek reference discusses deboning primarily thighs of poultry carcasses but does state that the device can be used on poultry wings as seen in the Abstract and therefore it is deemed that the wings can be suspended from a tip of the wing at one of its joints via the device - at 100. Further, applicant argues that the combination of the Lindert et al. and Hazenbroek references is improper in that suspending the wing via the device - at 100 of Hazenbroek would not provide enough support to allow for the cutting blades - at 22 of Lindert et al. to cut the wing. However, applicant's arguments are base on opinions and not statements of fact given the statement of "not likely result in the product being successfully cut", therefore these arguments are not persuasive. Further, the Lindert et al. reference discloses the bending and separating steps as set forth with respect to claims 14-15 above. Regarding claim 2, the Lindert et al. reference does disclose advancing the wing and elbow joint - at 14, forwardly in the processing path as seen via the arrows in figure 3 which show the conveyor - at 19 moving the wing and elbow joint forwardly toward the cutting blades - at 22. Regarding claim 4, the Hazenbroek reference discloses suspending the poultry wing from its tip by wedging the tip in a slot of a shackle - at 100 as seen in figure 13 and in the Abstract which states that the device can be used on poultry wings. Regarding claim 5, it is deemed that the combination of the Lindert et al. and Hazenbroek references renders the claimed invention obvious given the motivation to combine set forth in paragraph 3 of the final rejection dated 10-11-05. Regarding claims 6-8, it is deemed that the Lindert et al. reference discloses bending of the wing via the forces of the blades - at 22 acting on the wing held in the supports - at 15-19 as seen in figures 3-5 as set forth with respect to claims 14-15 above. Regarding claim 9, the Lindert et al. reference discloses forcing the mid-wing segment - at 14,24, laterally with respect to the tip segment - at 41 as seen in figures 4-5 where the mid-wing segment is shown moved laterally from the tip. and then popping the bones of the mid-wing segment laterally from the tip segment as seen in figures 7a and 8a. Regarding claim 12, the Lindert et al. reference discloses advancing the wings in sequence along the conveyor - at 19, with the outside surfaces of the wings facing in the same direction as seen in figures 3-5, with the wings being bent outwardly via the blades - at 22, thereby opening the joint via the blades - at 22 as seen in figures 4-5. The motivation to combine the Lindert et al. and Hazenbroek references is deemed to be proper as set forth in paragraph 3 of the final rejection dated 10-11-05. Further, in response to applicant's rebuttal of the examiner's arguments set forth in paragraph 4 of the final rejection dated 10-11-05, it is deemed that the cutting blades - at 22 of the Lindert et al. reference cause a bending of the wing when the blades produce a force on the wings as set forth with respect to claims 14-15 above. Further, it is deemed that the combination of the Lindert et al. and Hazenbroek references is proper given the motivation set forth in paragraph 3 of the final rejection dated 10-11-05.